

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 1993 of 1993****For Approval and Signature:****HON'BLE MR JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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BHIKHUBHAI BECHARBHAI SINGALA & OTHERS & 1 - Petitioner(s)
Versus
THE STATE OF GUJARAT & OTHERS & 1 - Respondent(s)

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Appearance :

MR PN BAVISHI for Petitioner No(s).: 1,2.
NOTICE SERVED for Respondent No(s).: 1.
MR ND NANAVATI for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE AKIL KURESHI**Date : 21/07/2005****ORAL JUDGMENT**

In the present petition, the petitioners have prayed for a direction restraining the respondents from constructing the road through the midst of agricultural

lands bearing survey No.22/4 of village Vekri, Taluka Gondal belonging to the petitioners.

2. The case of the petitioners is that road-line is laid down in such a manner that would pass through the agricultural lands belonging to the petitioners being survey NO.22/4. It is contended that the roadline is decided to save the lands belonging to some of the influential farmers at the instance of the then President of Gondal Taluka Panchayat one Shri Ranchodbhai Govabhai. It is contended that to save the lands belonging to Shri Ranchodbhai Gokalbhai, who is the cousin of said Shri Ranchodbhai Govabhai, the road-line is varied and instead of straight road, curved road line has been proposed.

3. Earlier, the petitioner No.1 had approached this Court by filing Special Civil Application No.3375 of 1980 against building of the road through his agricultural fields and the petition was allowed by a Division Bench of this Court by the decision dated 16th December 1991.

4. From the material on record, it can be seen that the petitioner has not substantiated his allegations of malafides. No person is joined by name in personal capacity to answer the allegations of malafides. The

petitioners have not joined Shri Ranchodbhai Govabhai as party respondent nor have the petitioners joined Shri Ranchodbhai Gokalbhai as party respondent. No officer from the Government has also been joined in personal capacity to answer the allegations of malafides. On this ground alone, it is not possible for this Court to inquire any further into the allegations of malafides made by the petitioners. In absence of any malafides, it is not possible for this Court to examine the wisdom of laying down the roadline and suggest some other way to build the road as suggested by the petitioners. The earlier petition filed by petitioner No.1 was allowed on the limited ground that though the road was proposed to be passing through the fields of the petitioners, under the notifications acquiring different lands for the purpose of constructing the road, survey No.22/4 belonging to the petitioners was not mentioned. Therefore, the Court found that in absence of any notification under section 4 or under section 6 of the Land Acquisition Act, it would not be open for the respondents to take possession of the land belonging to the petitioner and construct road thereon. In the present petition, however, the petitioners have questioned the proposal to construct road in a particular manner which challenge I am unable to countenance as noted above.

5. In the result, I find no merits in the petition and the same is hereby rejected. Rule is discharged. Ad-interim relief granted earlier is vacated. Rejection of the petition would not suggest that the respondents can construct road without undertaking proper acquisition proceedings for acquiring the land in question as observed by the Division in its judgment dated 16th December 1991 passed in Special Civil Application No.3375/80. Subject to the above observations, the petition is dismissed with no order as to costs.

(Akil Kureshi, J.)

(vjn)